

**PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA**

Project File Number, Description, and Location

PDC02-071. PLANNED DEVELOPMENT REZONING from CN Neighborhood Commercial Zoning District to A(PD) Planned Development Zoning District and subsequent permits on a 1.1 gross acre site located at the southeast corner of Winchester Boulevard and Neal Avenue to allow the construction of up to 20 single-family attached residential units. (Delta I LLC, Owner/Developer)
Council District: 06

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 500 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **December 11, 2002**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **November 22, 2002** and ends on **December 11, 2002**.

A public hearing on the project described above is tentatively scheduled for **December 11, 2002 at 6 p.m.** in the City of San Jose Council Chambers, 801 N. First Street, San Jose, CA 95110. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 180 W. San Carlos Street, and the Rosegarden Branch Library, 1580 Naglee Avenue, and online at www.ci.san-jose.ca.us/planning/sjplan/eir/mnd2002.htm. Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Elena Lee** at (408) 277-4576.

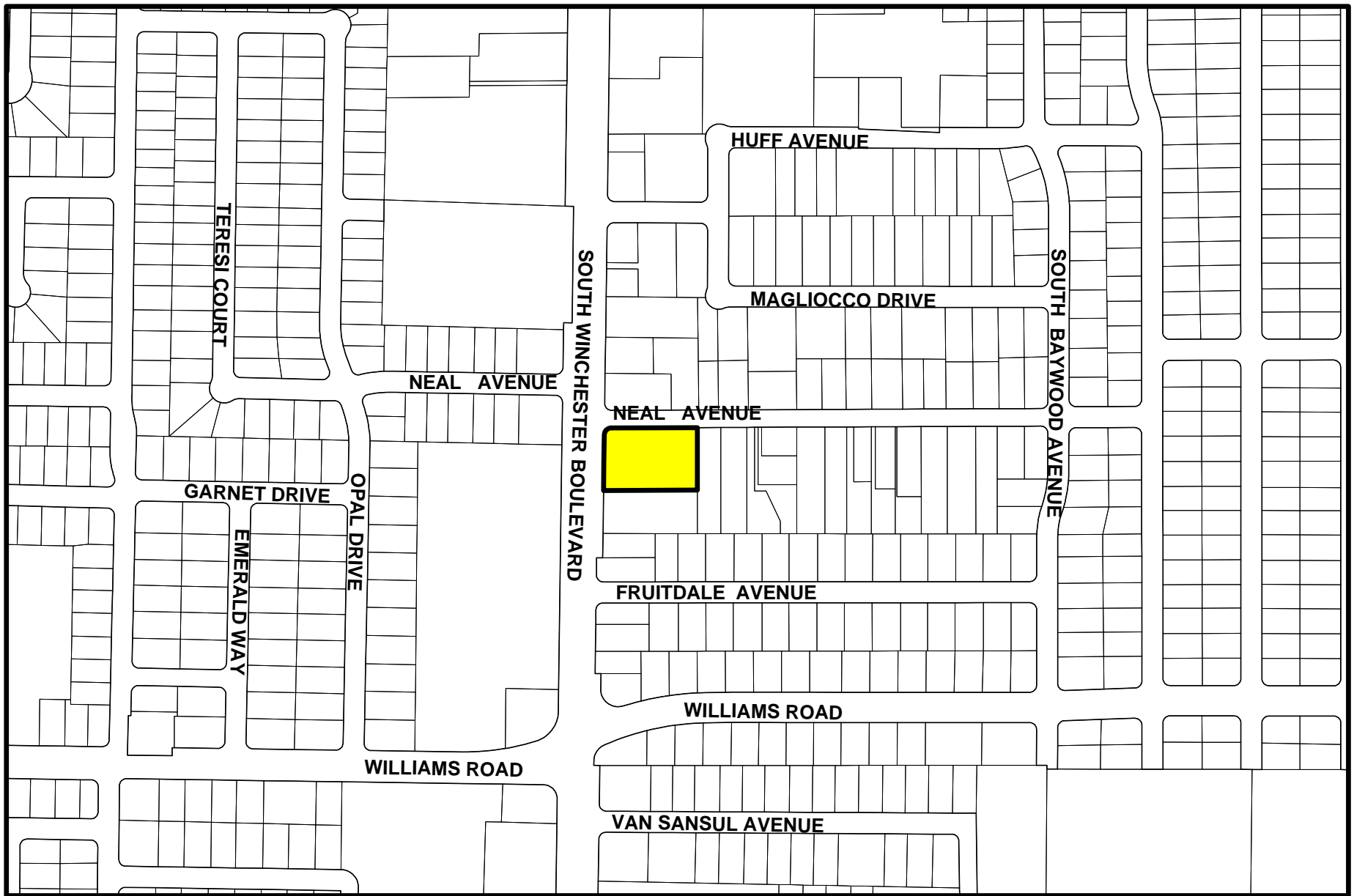
Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: November 22, 2002

Ron Eddow

Deputy

MNDPN/JL/10-23-02



Scale: 1"=400'

File No: PDC02-071

District: 06

Quad No: 98

**DRAFT
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Neal Avenue Townhomes

PROJECT FILE NUMBER: PDC02-071

PROJECT DESCRIPTION: Planned Development Rezoning From CN Neighborhood Commercial District to A(PD) Planned Development District To Allow Residential Uses On A 1.1 Gross Acre site. (20 Single-Family Attached Residential Units)

PROJECT LOCATION & ASSESSORS PARCEL NO.: Southeast corner of South Winchester Boulevard and Neal Avenue; 279-09-049

COUNCIL DISTRICT: 06

NAME OF APPLICANT: Delta I LLC

MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON:

Attn: Robert F. Hudson, Managing Partner
1451 Fruitdale Avenue, Suite 102
San Jose, CA 95128

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

Air Quality

- Precautions should be taken during construction activities. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site. The BAAQMD has prepared a list of feasible construction dust control measures that can reduce construction impacts to a level that is less than significant. The following construction practices should be implemented during all phases of construction on the project site. With the inclusion of these mitigation measures, the short-term air quality impacts associated with construction will be reduced to less-than significant levels.
 1. Use dust-proof chutes for loading construction debris onto trucks.
 2. Water to control dust generation during demolition of structures and break-up of pavement.
 3. Cover all trucks hauling demolition debris from the site.
 4. Ware or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind.
 5. Cover all trucks hauling soil, sand, or loose materials, or required trucks to maintain at least two feet of freeboard.
 6. Sweep daily all paved access road, parking areas, and staging areas at construction sites.
 7. Sweep streets daily if visible soil material is carried onto adjacent public streets.
 8. Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc)
 9. Install sandbags or other erosion control measures to prevent silt runoff to public roadways. Replant vegetation in disturbed areas as quickly as possible.

Biotics

- Trees approved for removal shall be replaced as follows:
 1. Each tree between 12 inches and 18 inches in diameter removed shall be replaced with two 24-inch box trees.
 2. Each tree greater than 18 inches in diameter shall be replaced by four 24-inch box trees.

Cultural Resources

- Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area

reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

Water Quality

- The project shall incorporate mitigation measures to minimize urban run-off. The mitigation measures include a storm water run-off management plan for construction activities to the satisfaction of the Department of Public Works, and compliance with all applicable City, Local, Regional, State and Federal laws. The project shall conform to the City of San Jose National Pollution Discharge Elimination System (NPDES) Storm Water Permit and shall include Best Management Practices (BMPs) as specified in the *Blueprint for a Clean Bay* to control the discharge of storm water pollutants including sediments associated with construction activities. Prior to the issuance of a grading permit, the applicant may be required to submit an Erosion Control Plan to the City project Engineer. The Erosion Control Plan may include BMPs as specified by the Association of Bay Area Governments' Manual of Standards Erosion & Sediment Control Measures for reducing impacts on the City's storm drainage system from construction activities. For above, please call the Department of Public Works at (408) 277-5161.

Noise

- To reduce the temporary increase in noise due to construction activities, the project will be conditioned to include proper equipment mufflers, maintenance of equipment, and limitation of construction hours. Noise construction operations shall be scheduled for the daytime hours of 7:00 AM to 7:00 PM Monday through Friday so as to avoid the more sensitive evening, nighttime, and weekend hours. With these mitigation measures, the temporary impacts to the project noise will be reduced to a less than significant level.
- To reduce interior noise levels to 45 dB DNL, the facades facing Winchester must have a window and exterior door sound rating of 33 and 36 at corner units. Units that do not face Winchester will not require sound-rated exterior assemblies. However, the windows will need to be in a closed position. Therefore, an alternate source of ventilation would be required for these units. A split-system air-conditioning unit should be provided for all the units.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on December 11, 2002 any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or

- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$50 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Row Eddow

Circulated on: November 22, 2002

Deputy

Adopted on: _____

Deputy

PUBLIC HEARING NOTICE

A change in Zoning will be considered at Public Hearings before the Planning Commission on Wednesday, **December 11, 2002, at 6:00 p.m.** and before the City Council on Tuesday, **January 21, 2003, at 7:00 p.m.**

These Public Hearings will be held in accordance with Title 20 of the San Jose Municipal Code in the City Council Chambers, on the second floor of City Hall, at 801 North First Street, San Jose, California. You are welcome to attend and to speak on this issue. If you choose to challenge this land use decision in court, you may be limited to only those issues you, or someone else, raised and discussed at the Public Hearing or in written correspondence delivered to the City at or prior to the Public Hearing.

The project being considered is:

PDC02-071. Planned Development Rezoning from CN Neighborhood Commercial District to A(PD) Planned Development District to allow single-family attached residential uses (21 townhomes) on a 1.1 gross acre site, located at/on the southeast corner of South Winchester Boulevard and Neal Avenue (890 S WINCHESTER BL). (DELTA I LLC, Owner/Developer) Council District 6. CEQA: Negative Declaration.

Reports, drawings, and documents for this project are on file and available for review 9:00 a.m. to 5:00 p.m., Monday through Friday at:

Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San Jose, CA 95110
(408) 277-4576

www.ci.san-jose.ca.us/planning/sjplan/

A staff report and recommendations will be available for your review during the week of the Public Hearing at the Department of Planning, Building and Code Enforcement and in a Public Packet at the hearing.

Comments and questions are welcome, and should be referred to the Project Manager, **Elena Lee**, of the Department of Planning, Building and Code Enforcement. Please refer to the above file number for further information on this project. For your convenience, contact Linda LaCount at the above telephone number the week of the Public Hearing to verify that this item will be heard and is not scheduled for deferral to a later date.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Carol Hamilton, Senior Planner
Dated: **November 21, 2002,**

Patricia L. O'Hearn, City Clerk

SECTION 20.120.400 OF THE SAN JOSE MUNICIPAL CODE
ESTABLISHES A FORMAT PROTEST PROCEDURE FOR REZONINGS
AND PREZONINGS BEFORE THE CITY COUNCIL

If you are the owner of property to be rezoned, or if you own property adjacent to or across the street from a proposed rezoning or prezonings, you may file an Official Protest. Such protest must be made on a form provided by the Director of Planning and must be filed in the Department of Planning, Building and Code Enforcement **by 5:00 p.m.** on the fifth day before the City Council opens its public hearing on the proposal (that is, the Thursday before a Tuesday hearing). A separate protest petition shall be filed for each separate protesting site. Contact the Department of Planning, Building and Code Enforcement if you have any questions.

Noticing Radius: 500 ft.